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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/722,579 | 11/26/2003 | Mitchell Clark Voges | 38213.00011.CIP1 | 5674 |

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EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/722,579

Applicant(s)

VOGES ET AL.

Examiner

Stephen L. Blau

Art Unit

3711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: As stated in the Final Office Action.
Claim(s) objected to: As stated in the Final Office Action.
Claim(s) rejected: As stated in the Final Office Action.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The elements of structure added in claim 1 of replacing one of the shaft and the club head and matching a velocity with a combination of launch angle and spin rate requires further consideration and/or searching.

Continuation of 11. does NOT place the application in condition for allowance because: Based on the interview and seeing and learning what problems are being solved with markings of different colors on a golf ball for evaluating and collecting launch data the examiner believes there is possible allowable material in claim 26. First the element of structure of the at least two colors being "different" needs to be added to claim 26 like it is stated in the specification. Gobush has markings of at least two colors (Fig. 5B, Ref. Nos. 134a-134f). However the at least two colors are the same. Also Karasavas has lines that are only colored differently and it is for real time visual evaluation. The examiner has changed his position that it would not be obvious to use the colored lines of Karasavas to transfer this teaching to colored small circular markings as shown by Gobush in figure 5B. Colored markings as shown in figure 5B of Gobush probably would provide absolutely no evaluation visually after hitting a ball. In investigating the meaning of marking the examiner could not interpret the main color of a ball to be a marking outside of smaller distinguished appearances on a surface of a ball (i.e. Gobush (6,758,759) in figure 5B does not show two different colored "markings"). Due to this being in the claim the applicant would also need to provide a very basic added drawing showing a ball and at least two different colored markings being careful to not add new matter. A basic drawing of a ball with two markings and describing them to be different in color should be sufficient. In evaluating Engelhardt it is noted that a ball has different colored markings for identification and location purposes but the examiner does not believe it would be obvious to use this identification pattern for gaining launch information as Gobush discloses because Gobush is not concerned with keeping track of all the different balls at the target area. The Information Disclosure Statement filed on 24 August 2006 after a Final Office Action did not the required fee and as such all of the references were considered.



STEPHEN BLAU
PRIMARY EXAMINER